

Section 50.00 is added to new Article 1 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

Chapter 5.5. Fishery Management Plans.

Article 1. Fishery Management Plans Generally.

50.00. Application and Location of Fishery Management Plan Regulations, and Designation of Weight in Pounds.

(a) Unless specified otherwise in a fishery management plan, or regulations adopted to implement a fishery management plan, the provisions of Article 1, Chapter 5.5, of Subdivision 1 apply to a fishery management plan (FMP) adopted by the Fish and Game Commission under authority of the Marine Life Management Act (MLMA) and other applicable state and federal laws and regulations.

(b) A regulation implementing a fishery management plan that is applicable to both sport and commercial fisheries is found in this Chapter. A fishery management plan regulation that is specific to ocean sport fishing is found with ocean sportfishing regulations in Chapter 4 of Subdivision 1, beginning with Section 27.00. A fishery management plan regulation specific to commercial fishing is found with commercial fishing regulations in Chapter 6 of Subdivision 1 beginning with Section 100.

(c) The presentation of fisheries and population data will be made using weight in pounds as the standard, unless designated otherwise in regulations adopted specific to a fishery management plan.

NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7071 and 7075, Fish and Game Code.

Section 50.01 is added to new Article 1 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

50.01. Definitions:

Definitions contained in Chapter 1 of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code, apply to fishery management plans adopted under this Chapter in addition to, and where not in conflict with, the definitions of this section or definitions specific to an FMP.

(a) *Allowable Biological Catch (ABC)* means the allowable catch, or the range of allowable catch for a species or species group, which is set each year by the Commission based on recommendations by the Department or other scientific advisors ~~a scientific group created by the management agency.~~

(b) *Allocation* means apportioning a harvest guideline, quota, or optimum yield between or among segments of the fishery.

(c) *Bait net* means a lampara or roundhaul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. Except for drum seines and other round haul nets

authorized under a permit issued by the department pursuant to Fish and Game Code Section 8780, the nets may not have rings along the lead line or any method of pursing the bottom of the net.

(d) *Commission* means the California Fish and Game Commission.

(e) *Department* means the California Department of Fish and Game.

(f) *Director* means the Director of the Department of Fish and Game

(g) *Executive Director* means the Executive Director of the Fish and Game Commission

(h) *FMP* means Fishery Management Plan.

(i) *FMP Framework/Framework* structure means the structure and process described in the FMP that provides for the application and adjustment of management measures within the scope and criteria of the FMP and implementing regulations, without the need to annually amend the FMP.

(j) *Harvest Control Rules* means options for management that describe the amount and type of harvesting that may be applied to a stock or stocks.

(k) *Harvest guideline* means a specified numerical harvest objective that, when attained or expected to be attained, does not require closure of a fishery.

(l) *Management action* means an action taken by the commission or department to implement management measures.

(m) *Management measure* means a specification or measure used to manage and regulate fishing for a stock under an FMP and may include, but is not limited to, resource allocation, harvest control rules, quotas, licenses and permits, season, size, gear, bag, and landing limitations, fishery monitoring and reporting requirements, regulation of bycatch, and enforcement measures.

(n) *Maximum sustainable yield or MSY* means maximum sustainable yield as defined in Fish and Game Code Section 96.5 or a substitute for MSY (MSY proxy).

(o) *Optimum yield or OY* means optimum yield as defined in Fish and Game Code Section 97 or a substitute for OY.(OY proxy).

(p) *Permit year* means the period from April 1 through March 31.

(q) *Quota* means a specified numerical harvest objective for the attainment (or expected attainment) of which may cause closure of the fishery.

(r) *Round weight* means the weight of fish in a whole condition at the time it is caught prior to being cleaned or dressed.

(s) *Round-weight equivalent* means the weight of fish in a cleaned or dressed condition adjusted by a factor to approximate round weight.

(t) *Routine management measure* means a management measure that is likely to be adjusted on a biennial, annual or more frequent basis and is categorized as routine in the plan following an analysis of the need for the measure, its impacts, and the rationale for its use.

(u) *Socioeconomic process* means a process authorizing the commission to apply or adjust management measures for a species annually or in season based on social or economic factors following preparation of a report including proposed management measures, a description of alternatives considered, and an analysis that addresses five criteria including how the action will accomplish at least one of 15 listed benefits to the

fishery.

(v) *Specification* means a numerical or descriptive designation of a management objective, including but not limited to: Allowable Biological Catch (ABC); harvest guideline; quota; allocation; or an allocation for a segment of the fishery or area, gear, season, fishery, or other subdivision.

(w) *Stock* means any species, species complex, population, or subpopulation that is actively managed within a geographic area.

(x) *Weight* means the weight is in pounds and round weight or round-weight equivalent, unless designated otherwise in regulations adopted specific to a fishery management plan. Where round weight is converted to number of fish, a conversion factor shall be based on the most current information readily available to the department.

NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Section 7071, 7075 and 7083, Fish and Game Code.

50.02 is added to new Article 1 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

50.02. Plan Amendment.

(a) The following actions shall first require amendment of a Fishery Management Plan (FMP):

(1) change to a management objective;

(2) change of species in the management plan;

(3) change in the definition of an overfished stock as defined in the FMP;

(4) amendment to any procedure required by the FMP; and

(5) revision to any management measure which is fixed in the FMP.

NOTE

Authority cited: Sections 7071 and 7075, Fish and Game Code.

Reference: Sections 7071, 7075, 7078, 7086 and 7087, Fish and Game Code.

Section 50.03 is added to new Article 1 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

50.03. Framework Review Processes.

(a) Three processes for taking management action are available to implement routine annual changes in management of fish stocks and fisheries within the Framework Review Process.

(1) *Full Rulemaking Action*: The commission may approve a full rulemaking action normally requiring at least two or more commission meetings to hear, consider and approve measures effecting any aspect of management and fisheries, including direct allocation of a catch quota or an optimum yield, with concurrent adoption of regulations

reflecting the commission's action.

(2) Notice action: The commission may approve a notice action requiring at least one commission meeting to approve "routine" management measures such as establishing annual catch quotas or optimum yields. A measure will be classified as a routine management measure through the full rulemaking process, which will qualify it to be modified thereafter through the single meeting procedure if 1) modification is proposed for the same purpose as the original measure; and 2) impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as routine. Analysis need not be repeated when the measure is subsequently modified if the commission determines impacts do not differ substantially from the original analysis.

(3) Prescribed action: A prescribed action is ministerial and may include a fishing season, or gear closure when a harvest quota has been achieved, or include other actions for which regulatory guidelines are already adopted to meet sustainable management goals.

(b) Nothing in this section precludes the Director from exercising authority to take emergency action pursuant to Fish and Game Code Section 7710, or of the commission to take emergency regulatory action under Section 11346.1 of the Government Code, or under Section 240 of the Fish and Game Code.

#### NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

Section 51.00 is added to new Article 2 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

#### 51.00. Purpose and scope.

(a) This Article implements the White Seabass Fishery Management Plan (WSFMP or plan), as adopted and amended by the California Fish and Game Commission consistent with the goals, objectives and procedures of the WSFMP and the Marine Life Management Act of 1998. These regulations, in combination with other applicable provisions of the Fish and Game Code and Title 14, CCR, govern management and regulation of white seabass stocks and fisheries.

(b) A regulation implementing a fishery management plan that is applicable to both sport and commercial fisheries is found in this Chapter. A fishery management plan regulation that is specific to ocean sport fishing is found with ocean sportfishing regulations in Chapter 4 of Subdivision 1, beginning with Section 27.00. A fishery management plan regulation specific to commercial fishing is found with commercial fishing regulations in Chapter 6 of Subdivision 1 beginning with Section 155.

#### NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7070, 7071 and 7075, Fish and Game Code.

Section 51.01 is added to new Article 2 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

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51.01. Definitions.

These definitions are in addition to those definitions specified in Section 50.01.

(a) *Fishing year* under the White Seabass Management Plan means the period from September 1 through August 31.

(b) *Overfished stock* means that the total annual commercial catch of white seabass in pounds reported landed on fish receipts provided to the department for the past two consecutive years declined each year by 20 percent or greater from the prior five-year average of landings, a 20 percent decline occurs in the number of fish and average size of fish (round weight) for the same two consecutive years for white seabass caught in the sport fishery as determined based on best available data, and recruitment indices for juvenile white seabass decline each year by 30 percent or greater from the prior 5-year average of recruitment. This definition will remain in use until the White Seabass Scientific and Constituent Advisory Panel (WSSCAP) develops, and the commission adopts, a different definition [required by Fish and Game Code Subsection 7086(a)].

(c) *Point of concern* means one or more of the following conditions affecting white seabass that, if found or expected to exist, may trigger the application or adjustment of one or more management measures by the commission.

(1) catch is expected to exceed the current harvest guideline or quota;

(2) any adverse or significant change in the biological characteristics of white seabass (age composition, size composition, age at maturity, or recruitment) is discovered;

(3) an overfishing condition exists or is imminent;

(4) any adverse or significant change in the availability of a managed species' forage for dependent species or in the status of a dependent species is discovered;

(5) new information on the status of white seabass;

(6) an error in data or a stock assessment is detected that significantly changes estimates of impacts due to current management.

(d) *Points of concern process* means a process authorizing the commission to apply or adjust fishery management measures at any time during the year based on confirmation of the existence of one or more resource-based points of concern identified in a fishery management plan pursuant to Subsections 50.03(a)(1) and (2).

(e) *Socio-economic benefits* means one or more social or economic issues as specified in the FMP affecting white seabass that, if found or expected to exist, may trigger the application or adjustment of one or more management measures by the commission.

(f) *White seabass* means *Atractoscion nobilis*.

(g) *White seabass fishery* means fishing for or harvesting of white seabass inside and outside of California by vessels subject to California law.

(h) *White Seabass Fishery Management Plan* means the White Seabass Fishery Management Plan approved by the Fish and Game Commission March 8, 1996 as subsequently amended by the Fish and Game Commission.

NOTE

Authority cited: Sections 7071 and 7086, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7086, Fish and Game Code.

Section 51.02 is added to new Article 2 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

51.02. Process and Timing

(a) White seabass management will conform with the goals, objectives, criteria, and procedures of the White Seabass Fishery Management Plan and other applicable laws and regulations, including the points of concern, socioeconomic, and framework review processes.

(b) The director may appoint a White Seabass Scientific and Constituent Advisory Panel (WSSCAP) to assist the department and commission with review of white seabass fishery assessments, management proposals, and plan amendments. Membership on the WSSCAP should be reserved for those knowledgeable in the principals of fisheries science, including stock assessment, and/or those interested in, and involved with, white seabass resource and fisheries. The director may determine the term and conditions of membership on the WSSCAP.

(c) Monitoring and assessment of white seabass fisheries shall be conducted annually utilizing best available data, but at a minimum, the collection and review of reported catches. The department will provide management recommendations to the commission annually, and in-season if needed, based on criteria to be developed by the department's White Seabass Management Team in cooperation with the White Seabass Scientific and Constituent Advisory Panel, and approved by the commission.

(d) When acting to adjust management of a species within a fishery management unit based on non-biological and socioeconomic issues, the commission will follow the process specified in the fishery management plan.

(e) Annual specifications and management measures are generally developed in the fall and considered and adopted at two commission meetings held during the period from November through April depending on the timing and complexity of the issues. However, management measures and actions may be developed, considered, adopted, and implemented at any time of year according to the criteria and procedures of the points of concern process.

NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

Section 51.04 is added to new Article 2 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

51.04. Allocation.

(a) Allocation of an annual white seabass harvest in pounds between recreational and commercial fisheries will be determined consistent with options specified in the White Seabass Fishery Management Plan.

(b) The commission shall consider at least the following factors in the allocation of white seabass:

(1) present participation in and dependence on the fisheries, including alternative fisheries;

(2) historical fishing practices in, and historical dependence on, the fisheries;

(3) the economics of the fisheries;

(4) any agreement between the affected participants in the fisheries;

(5) potential biological impacts on white seabass, associated species or their habitats affected by the allocation; and

(6) consistency with the goals and objectives of this WSFMP and the MLMA.

(c) A modification of a direct allocation to a fishery may be designated as a "routine management measure" where the specific criteria under which the allocation is made is specified in regulations adopted pursuant to Section 50.03.

NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

Section 51.05 is added to new Article 2 of new Chapter 5.5, Subdivision 1 of Title 14, CCR, to read:

51.05. Harvest Control Rules.

(a) Harvest control rules that specify either status quo management or the pounds of white seabass that may be taken annually shall be selected by the commission from options provided in the White Seabass Fishery Management Plan (WSFMP) as follows:

(1) Option A: This is a status quo management option. Fishing is conducted under existing regulations.

(2) Option B1: The MSY proxy is computed as approximately 40 percent of the estimated pristine stock size (40 million pounds) modified by natural mortality (0.1). The MSY proxy is then adjusted downward by multiplying by 0.8125 to obtain the OY of 1.3 million pound.

(2) Option B2: The MSY proxy is computed as approximately 40 percent of the estimated pristine stock size (40 million pounds) modified by natural mortality (0.1). The MSY proxy is then adjusted downward by multiplying by 0.75 to obtain the OY of 1.2 million pounds.

(3) Option C: Three suboptions are available for use in setting an annual white seabass OY that is computed and based on MSY proxies estimated based on the average of white seabass catches for the following time periods:

(A) Suboption 1:  $OY = 0.75 \times \text{MSY proxy}$  estimated based on the average of white seabass catches during the five years 1996 through 2000. The resulting  $OY = 339,774$  453,029 pounds.

(B) Suboption 2:  $OY = 0.75 \times \text{MSY proxy}$  estimated based on the average of white seabass catches during the 10 year period of 1988 through 1989 and 1993 through 2000. The resulting  $OY = 247,702$  330,270 pounds.

(C) Suboption 3:  $OY = 0.75 \times \text{MSY proxy}$  estimated based on the average of white seabass catches during the 15 year period 1983 through 1989 and 1993 through 2000. The resulting  $OY = 212,985$  283,979 pounds.

(4) Option D: This option is available for setting an annual white seabass OY based on average annual landings from an earlier time period as follows;  $OY = 0.75 \times \text{MSY proxy}$  estimated based on the average of white seabass catches during the eleven year period of 1947 through 1957 resulting in a  $OY = 855,534$  pounds.

(b) The period of years used to calculate the MSY proxies in Suboptions under Option C may be updated annually to include the most recent white seabass catches, which may either be added to the time series, or substituted for the first year of the time series in each suboption.

(c) The commission may use any combination of management measures to meet an annual OY for white seabass.

#### NOTE

Authority cited: Section 7071, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

Section 155.01 is added to Title 14, CCR, to read:

#### 155.01. White Seabass Commercial Size Limit:

(a) It is unlawful to take, possess, sell, or purchase any white sea bass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longer lobe of the tail.

(b) Fish and Game Code Section 8383.5 is hereby made inoperative.

#### NOTE

Authority cited: Sections 7071 and 7078, Fish and Game Code.

Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

Section 155.1 is added to Title 14, CCR, to read:

#### 155.1. Use of Purse Seine and Roundhaul Nets and Delivery to California Ports.

(a) It is unlawful to use any purse seine or round haul net to take white seabass in



waters off California.

(b) It is unlawful to possess any white seabass, except those taken south of the International Boundary Line between the United States and Mexico, and imported into the state pursuant to authority of subsections (c) and (d), on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net defined pursuant to subsection 50.01(b), Title 14, CCR.

(c) White seabass taken in waters south of the International Boundary Line between the United States and Mexico, extended westerly in the Pacific Ocean, may be delivered to California ports aboard boats, including boats carrying purse seine or roundhaul nets in accordance with subsection (d) governing the inspection and marking of such fish imported into this State. The cost of such inspection and marking shall be paid by the importer.

(d) No person, firm, or corporation shall deliver, accept, or unload any white seabass from any vessel carrying a purse seine or roundhaul net until the Fish and Game Patrol office nearest the point of delivery shall have issued a written inspection clearance to the master or operator of such vessel, or his agent, permitting said delivery. Such clearances shall be on such forms as the Department of Fish and Game shall prescribe. Such clearances shall be issued upon presentation of evidence satisfactory to the Department of Fish and Game of the fact that such fish was taken south of the International Boundary Line between the United States and Mexico.

(e) Notwithstanding the provisions of this section, the department may issue permits to hook-and-line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

NOTE

Authority cited: Sections 7071 and 7083, Fish and Game Code.

Reference: Sections 2362, 7071, 7075, 7082, 7083 and 8623 Fish and Game Code.

Section 155.10 is added to Title 14, CCR, to read:

155.10. Gill Net Mesh Size, Closed Season, Possession of Thresher and Shortfin Mako.

(a) Gill nets with meshes of a minimum length of six inches may be used to take white seabass. However, during the period from June 16 to March 14, inclusive, not more than 20 percent by number of a load of fish may be white seabass 28 inches or more in total length, up to a maximum of 10 white seabass per load, if taken in white seabass gill nets with meshes not less than 6 inches in length.

(b) In accordance with Fish and Game Code Section 8576, during the period from February 1 to August 14, inclusive, not more than two thresher sharks and two shortfin mako sharks may be possessed and sold if taken incidentally in drift gill nets while fishing for white seabass and if at least five white seabass are possessed and landed at the same time as the incidentally taken thresher or shortfin mako shark.

NOTE

Authority cited: Sections 7071 and 7083, Fish and Game Code.

Reference: Sections 7071, 7075, 7082, 7083 and 8576 Fish and Game Code.

Section 109, Title 14, CCR is amended to read:

109. Importation of Yellowtail; and Barracuda; ~~and White Sea Bass~~ from Mexico. No person, firm, or corporation shall deliver, accept, or unload any yellowtail or, barracuda; ~~or white sea bass~~ from any vessel carrying a purse seine or round haul net until the Department of Fish and Game Patrol office nearest the point of delivery shall have issued a written inspection clearance to the master or operator of such vessel, or his agent, permitting said delivery. Such clearances shall be on such forms as the Department of Fish and Game shall prescribe. Such clearances shall be issued upon presentation of evidence satisfactory to the Department of Fish and Game of the fact that such fish was taken south of the International Boundary Line between the United States and Mexico.

NOTE

Authority cited: Sections 7071 and 7088, Fish and Game Code.

Reference: Sections 7071, 7075, 7078 and 7088.